2; Skrefsrud M-5 (1870-1871) 1942 AW42 Santal AW42

VIII. CRIME AND ITS PUNISHMENT

a. The councils.

623 We have three kinds of councils: The village, or headman's council, the outside, or over-
634 chief council, and the hunt, or the council of the people of the country. In the village council the village headman is the president; in the outside-council the Pargana is the president, and in the hunt council the hunt-priest is the president. In the headman's council the 'five men' of the village[1] assist the headman in judging. In the Pargana's council the village headmen under the Pargana and the village people of the neighbourhood assist him in judging. In the hunt-council the people of the whole country assist the hunt-priest in judging. The headman is above the village; the Pargana is above a number of villages. There is nothing fixed; they have not the same number of villages, some have many, others have only a small number under them. We have Dęs Mąńjhis, these are the assistants of the Parganas. From a village headman's judgement they may appeal to the Pargana, and from the Pargana's judgement they may appeal to the people of the country in the burnt forest. From the judgement of the people of the country there is no appeal.

634 The customary perquisites of a Pargana are as follows: From every single village under him he is to get year by year one rupee, half-a-seer clarified butter, and eighty cobs of Indian corn. The Dęs Mąńjhi gets eight annas, a quarter seer clarified butter, and forty cobs of Indian corn every year in the same villages. When the village headmen under the Pargana pay in to him his perquisites, he gives them a feast, and the Dęs Mąńjhi also
177 does the same. Nowadays some village headmen do not give the Pargana the rupee, neither
178 does the Pargana give any feast to the village headmen who pay: they let all pass into
622 desuetude, since the Europeans have appeared in the Santal country. Since these have
634 appeared, the Parganas and the village headmen have become utterly greedy; anyone who
661 is able to give them most money, in his favour they judge, and people of this kind they help in the public courts, and poor people who have no money, they do not take any notice of; without cause or reason they scold and browbeat them and cause their suit to be dismissed.

177 The people of the country are not nice either. They do not inform the village headman,
178 neither do they complain to the Pargana, and to the people of the country they do not
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[1] See Dictionary s. v. mōṛē hoṛ.

3t Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
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wit and sometimes his force, to control the tipsy folk.

(iv) *Godet*:—He is a sort of an usher and bearer-in-general at the beck and call of the headman and his assistants, holding like them rent-free lands as the privilege of his office.

(v) *Naeke* and *Cudam Naeke*: —Added to the fore-going, the ecclesiastical functions of the tribe are exercised by the *Naeke* (village-priest) and his assistant, whose special function is to propitiate the hill-spirits.

(2) Inter-village organization:—

The rural units, on their turn, are federated into a number of larger groups, each under the supervision (as we saw in Mayurbhanj) of a Desh-Pradhan, whose special function, we shall soon notice.

On the top of this, these federal units are co-ordinated under the superintendence of a Santal over-chief, called *Pargana* having a varying area of the country under his jurisdiction, over which according to immemorial custom, he is the supreme head.

The special function of these tribal offices will be explained in detail in course of this chapter; and it is time that we should deal with the village assembly, a wonderful relic of ancient India embedded in the Santal tribal jurisprudence, serving

3t Mukherjea O. Y-4, 5 (ca. 1933-1939) 1962
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as the right hand of the headman in the exercise of his office.

Village-assembly and its powers and functions

Social authority in village is exercised by the Headman, but always in consultation with the "Mòɲɛ̀n hòɽ" (*panchayet*) who were originally five in number. At present the number is not so fixed. It comprises the village elders representing all the households. When any question for decision comes, the Headman or in his absence the *Paranik*, receives the complaint. If the matter is simple enough, it is decided immediately by the Headman with the help of the "Mòɲɛ̀n hòɽ," the members of whom are summoned by the village official, *gòḍet*. If the case involves knotty questions of tribal law, a date is fixed for decision when the parties adduce oral evidence and after due consideration, judgment is pronounced by the Headman.

To take a concrete case, supposing a man has been seriously wounded by another man's buffalo. In such a case tribal laws require the accused to pay a money compensation to the complainant. These judgments are bound to be obeyed and breaches are rare. After the judgment, there is a custom of a money payment being made to the judges by the accused, to be spent by them in feasts and drinks. In some areas, as in the *sadar* sub-division of Mayur-

3: Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
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In some areas, as in the sadar sub-division of Mayurbhanj, there is an interesting variation in the custom requiring both the complainant and accused to pay jointly for the feast of the judges, in the proportion of ten annas for the accused and six annas for the complainant in the rupee. Generally the "pañc" themselves eat the dinner; the public take no part in it. The contending parties then depart after a cordial mutual *johar* (salutation). In frivolous cases, the complainant has got to pay a fine himself. So we see that the Headman is not the sole repository of law in the eye of tribal jurisprudence to settle disputes; he must consult the "*Mònṛèn* hòṛ" to arrive at a decision.

The Headman with the assembly decides all matters of a socio-religious, legal and quasi-legal nature of the village. They are the fountain-heads of justice and custodians of Santal customs and manners, the first court of law both civil and criminal, for the Santal is generally averse to litigation in legally constituted courts, and prefers the arbitration of his village-elders.

To go into details, the Headman with his assembly will raise subscriptions for the public festivals like the December Harvest-Home, for religious feasts, and for offering libations to the deities of serious epidemics affecting the tribe. In all cases of marriage and funerals, the Headman and his advisory body must attend. Such ceremonies without them are unthinkable to the Santal.

3: Mukherjea O. Y-4, 5 (ca. 1933-1939) 1962
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623 without them are unthinkable to the Santal.
622 Similarly, when a man wants to accept a "ghàrdi
[606] jamwanc" (domesticated son-in-law, if such a term is permissible), he calls in the village-assembly and informs them orally about his intention.

623 Besides, the Headman deals with breaches of all
627 social taboos by the Santals under his jurisdiction.
692 Thus, a woman getting upon a thatch, or taking
688 to the plough, a man sprinkling water on his elder sister-in-law on the conclusion of the flower-festival or a woman on her husband's elder brother and *vice versa*, are called upon by the Headman and his jury to answer the serious charges, thought to affect the well-being of the tribe and receive their proper share of punishment and a ceremonial purification before restoration to the tribal fold. There are various ways of such expiation as we shall see later on in course of this chapter; elaborate processes being gone through to cleanse the erring member
622 from his or her sin. The Headman and his council
623 are also the custodians of Santal customary laws in
692 the first instance, only they lack jurisdiction to try offences against the tribal totems. They have seisin even over crimes against the marriage law or forbidden degrees in sexual congress, if they are of a lighter nature, the natural venue of such trials being the higher courts as we shall soon see.

3t Mukherjea O, Y-4,5 (ca. 1933-1939) 1962
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Desh-pròdhan and his inter village council

The second court of appeal in Santal tribal law is presided over by a Desh-Pròdhan having jurisdiction over about twenty villages. The unwritten Santal procedure code requires that the president of the tribunal should be assisted by a "Mònjèn hòr" (village elders) representing the villages under him, as well as the Headman of the village from whom the case came by way of reference or from the appeal of the party aggrieved by the decision of the village court. The cases tried here on reference are generally complicated ones, as the case of an unmarried mother, the paternity of whose child the village Headman is unable to trace, and bigger social disputes about tribal customs or usage during religious or social functions. This higher tribunal sits only occasionally, being either convened by the president himself on his own initiative, or on being moved by the aggrieved party. Such a president is selected by the villages constituting his constituency, and he is irremovable till his death.[1]

1. As regards the reference to the *Desh-Pròdhan*, we had an interesting tug-of-war during our investigation in Mayurbhanj, when a *Pròdhan* (Headman) stoutly refused to admit that the aggrieved party himself had any right of appeal to the *Desh-Pròdhan*, maintaining that the court of appeal could only be set in motion by the Headman's reference alone. We undertook extensive inquiries but found the weight of opinion overwhelming against the claim of the Headman.

3t Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
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decided. The penalty for non-observance of this law is that they would be socially ostracised themselves.

The venue of the final trial rests on the tribal chiefs and various other officials of the tribe who assemble together during their general hunting season in the month of Santal *Pata Cando* (swinging festival known as Còròk) At this big Santal assembly, the case is reopened and the parties are asked to adduce evidence in support of their case. If, however, the accused pleads guilty, there is an end of the matter, and he or she, as the case may be, is fined or ostracised. If the fine is not paid within the date fixed, ostracism takes place in lieu of fine.

When the parties are found guilty by the assembly, the Headman, who took cognisance of the offence initially, gets his credit, but if the evidence shows that the accused persons are not guilty, he is himself seriously punished.

When a verdict of guilt is passed, a general decree of excommunication is issued and a date is fixed for the ceremony. The date and place of *Bitlabà* is communicated through the entire tribe by means of a branch of a *Sal*-tree conveyed on the shoulders of a Santal from one village to another, from one market-place to another; outside their pale few know the significance of this mysterious notice.

Si Mukherjea O. Y-4, 8 (ca. 1933-1939) 1902
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MAYURBHANJ

At Mayurbhanj

684 184 [579] Our enquiries at Mayurbhanj revealed the existence of this institution, the only difference being that no general unrest was reported within recent memory attending the execution of the tribal punishment, so as to endanger the peace of the land.

692 623 634 684 Here also the parties adduce evidence before the *Panchayet*, and more serious cases are referred to the inter-village council and thence, if necessary, to the Supreme Court during the tribal hunt or the parliament at *Mòkòrbasi*.

684 783 [346] The special feature of the Mayurbhanj programme includes installation of a *càṇḍàl* (a temple-like structure made of *Sal* wood) in which straw or mud images of the delinquents are placed, whereas their clothes are hung outside. Then amidst music and beat of drums the ceremony of penance is performed.

Restoration to the Tribal fold

The men who are thus excommunicated are prohibited from any social intercourse with the others as dining and getting their children married. Thus harassed by the villagers, the boycotted persons sometimes leave the village to save themselves and their progeny from ignominy. The position of those who were outcasted for having sexual connexion with people of other races is the worst, for they are

Sr Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
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dangers visiting the tribe. In the background of their minds, they are not imbued by any moral feelings or any sense of tribal aristocracy. Some think that in case of such transgression, the gods in their ire will send drought and famine and pestilence in the place thus visited by sin as it is an insult to them. But when one analyses the behaviour of the Santal masses, when they receive news of prohibited sexual congress and the collective indignation they give vent to as a reaction, one is led to believe that the Santal's almost "instinctive fear of such defilement has behind it also the sub-conscious and, to all appearances, instinctive fear of a mysterious dangerous power of the nature of *mana* infecting the erring woman and her family and calculated to prove contaminating and destructive as death."[1]

Santal Customary Law

We have seen in the foregoing pages that the village-council is the repository of Santal tribal law concerning succession and inheritance. It is therefore necessary for us to give the reader some idea of the law on the subject.

Generally speaking, all the sons of a Santal have equal shares of inheritance in the properties left by their deceased father. The daughter has no right

1. The Kharias. Page 177. Rai Bahadur S. C. Roy.

181 619 783 784 181 783 778 671 623 428 428 [113]

3t Mukherjea O. Y-4,5 (ca. 1933-1939) 1952
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into customary laws. The Santal has, in his own way, learned to value the corporate discipline necessary under social life. He has built up his own body of traditions and customs and has appointed proper custodians to look over them, to administer them for the well-being of the tribe on the earth. Nobody expects from the Santal the cultural level we associate with the civilized races in India, but enquirers into their manners and customs must be struck with the correlation of the cultural evolution of the tribe with its material and environmental back-ground, noticed in the previous chapters.

Scholars of Pre-Dravidian life have noticed the communistic aspect of their society. In many instances, this holds true of Santal life. The leadership of the tribe, whether social or socio-religious as exercised by the Headman or the Priest, is exercised with due restraint because of the check imposed by the consultative body known as "*Monren hor*." Thus Santal tribal judgments have that provision for justice and fair-play which all civilised societies crave. That such democratic ideas permeate the whole tribe will be apparent from the practice of offering gifts to the member in whose house there is festival going on. To a people who are remarkably poor like the Santals, this practice lightens the burden of the house-holder, bound by custom to provide community feasts and drinks, apart from

3t Mukherjea O. Y-4, 5 (ca. 1933-1939) 1962
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105 182 431 being an evidence of fraternal virtues of co-operation.

105 181 421 836 Although ideas of individualism have saturated the Santal social fabric and they now own private property, and have personal ownership over many things, communistic ideas in origin can be easily traced in the custom which allows all bachelors of the tribe to have free access and intercourse with the unmarried girls of the tribe barring of course customary prohibited degrees and relations.

105 593 Evidence of discipline in family life can be easily noticed. Their heads of families are held in great esteem and their commands are carried out [611] respectfully. Although the family is patrilineal and patripotestal, the mother has her natural voice in the family-life and women, notwithstanding all their legal disabilities, have their moral rights assured.

105 181 582 Nowhere is the democratic authority of the appointed guardians of the tribe in better evidence than in the cases of marriage regulations. It is in the administration of these that we can see the will of the Santals finds fullest play. We have seen in the foregoing pages how clan-incest is detested and how the erring ones undergo penance and restored to the tribe. It is the tribal council, the sacred [623] repository of all customs and traditions, that main- [684] tains intact the tribal solidarity and purity by out-casting the man and woman who have become

3t Mukherjea O. Y-4, 5 (ca. 1933-1939) 1962
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mediums of pollution to the tribe and thereby to its security and well-being. The Santal does not take recourse to such social ostracism so much from motives of punishment as from a sense of defence against some external sin visiting the tribe; and by restoring the delinquent to the tribal fold, they want to communicate afresh the "mana" (taboo-holiness) which he was supposed to have lost by his action.

In conclusion we may say that there is a close inter-relation between the material culture, the social organization and the tribal government of the Santals. By taking recourse to various means the Santal has, in his own way, solved the problem of the struggle for existence. This we have seen in detail in the chapter on "Economic Life." Here we have seen how by their tribal polity, they have devised measures as to how to live an orderly life to achieve that security without which life on earth degenerates into the anarchy of the jungle.

3t Mukherjea O. Y-4, 6 (ca. 1933-1939) 1902
AW42 Santal AW42

776 782 men alone to taste those presented before the Abge Boŋgas.

793 *Selection of Village Priest*

We consider it appropriate at this stage to give the readers some idea as to how the priest, the human connecting link between the tribe and the 793 gods, is selected. When the priest dies childless or • 623 resigns voluntarily, village elders assemble at the 622 house of the Headman or the priest. Next, the six deities of holy grove are invoked by the men sitting on mats, each with a winnowing-fan and some sun-dried rice given by the priest, if he is resigning, or by the Headman, if the priest is dead. [787] As usual some begin to shake their heads in a hypnotic trance and get possessed. These men in trance are asked as to who they are. They name themselves after the gods they stand for. Thereafter, they are questioned as to whom they are recommending for the post. They answer. But it is customary that Marań Buru will first propose a name, and the other actor-deities invariably second and support him.

793 We have said before that the priest gets rent-[423] free lands, out of whose proceeds he can buy [425] sacrificial fowls and other requirements of office. [689] Should he commit any social wrong, he can be [623] removed from office by the tribal assembly.

4: Biswas D, E-3, 4 (1931-1945) 1956
AW42 Santal AW42
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634 Custom has made these positions hereditary and
666 there is a formal election system. The eldest member in each house of the village has a vote. After election the headman's appointment is confirmed by the Sub-divisional officer and the Deputy Commissioner of that Division, and the *Desh Manjhi's* appointment is confirmed by the Sub-divisional Officer only.

221 **Federal Council and The First Court of Appeal**
622 **The Panchayat and Kulidrup**

624 In the month of Magh (January and February) the village people gather together after a sacrifice. The headman of the village, taking the lead, resigns his post to the village people; all the other officials of the village also resign their posts one after another

634 **Panchayat**: In each *bunglow* there are two councils, upper and lower, like the modern Council House and Assembly of India. The upper is known as *Panchayat* in which the *Parganait* of the *bunglow* presides and the headman of all the villages of the *bunglow* become members of the *Panchayat*. Affairs of a weighty nature have to be decided in the council.

623 **Kulidrup**: The lower assembly is known as *Kulidrup*
634 in which the eldest member of each house represents the assembly and the headman of the village presides. The indigenous officials of the village described above are ex-officio members of the *Kulidrup* and every village has a place for holding the council before the house of the headman of the village which is known as *Manjhisthan*. All petty disputes, both of a civil and

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All petty disputes, both of a civil and criminal nature, are settled there but if the matter to be settled is of an immoral and shameful character, they go to the end of the village street or on some other convenient place where they need not fear to hurt the feelings of their womenkind.

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Inheritance: In the matter of inheritance, the Santals follow their own customs and know nothing of the so-called codes which govern the devolution of property among the Hindus. Till the death of the father the property of the family remains intact and all the members enjoy in common. After his death the property is divided among his sons equally except that the eldest gets a bullock and a rupee more than the others. As the Santal women have no right to any of the property, movable and immovable, the question of inheritance on their part cannot arise at all. If a man dies without an issue his property goes to the nearest relation. If the father of the deceased remains alive the property will revert to the father; if he is dead it goes to the brothers of the deceased equally; if the latter are dead their sons succeed. In default of this the paternal uncles and their sons become successors. The condition of the widow of a childless man becomes very bad; none takes her charge. Sometimes she gets one cloth, a bati (brass vessel), a calf and 10 to 12 maunds of paddy. Sometimes also it can be seen that her husband's younger brothers keep her. Even when one of the younger brothers keeps her, the share of the deceased brother is equally divided between all the brothers. If the younger brothers of her husband do not give her any shelter she returns to her parents'

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the members; or if the sons do not live happily together, specially when the father has married again and had other issue, the parents make a partition This partition takes place in the presence of the members of the Kulidrup (the council of the village people). A Kulidrup is called and the father divides all the land, cattle, and other things. The landed property is divided equally, the father and the sons get a share each. The house is also divided equally among the sons and father. If in a house there are four rooms then each will get one, provided all are married. The son with whom the parents live retains possession of their share during their lifetime. Unmarried sons get a double share of the live-stock, one share, for their marriage expenses. Daughters get no share in the property but if they are unmarried they get one calf each, that being the dowry to be given them at marriage, because during the marriage the bride's side has to give a calf to the brother of the bridegroom. The cattle which the sons get at their marriage are divided. But the cattle which the daughters-in-law received from their fathers, brothers and from their fathers-in-law at the time of marriage are not divided. After the death of the wife of a Santal, her unmarried sons cannot claim a partition even if their father takes a second wife, but they can do so if they like after marriage. If the second wife has no children when the father dies the sons by his first wife will get the share of the father provided they agree to pay for the funeral of their step-mother.

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622 [796] [174] man, together with that of all the other officials, was renewed annually, but there is little reality in it at the present day and the post is held for life. He is the spokesman of the villagers in all matters affecting their temporal welfare. In the original 622 settlements it was usual for two or three brothers to start the new village together. The eldest brother assumed the leading 174 position, and all the lands cleared or claimed for the future 423 were in his gift. The cultivable land was divided equally after 427 some portions had been reserved for the officials in recognition of the services they would be called on to perform for the benefit of the community, and the headman received the biggest share of the reserved land. As the village grew, others came to settle. Some became the tenants of the headman, fleeing from the oppression of landlords elsewhere. Others came into the village by marrying daughters of the first settlers. So it comes about that the family of the headman is the most substantial in the village. During the course of years, however, even the headman has in the majority of cases lost his original rights to a non-Santal landlord and has himself become an under-tenant, in spite of which his family has maintained its favourable position in relation to the rest of the villagers. In some cases he has also been able to acquire the rights of other tenants who have defaulted for one reason or another in paying rent.

622 [434] [689] [224] [585] In addition to land, the headman receives other payments which he can use for his own benefit. Thus, when an offender against tribal custom is fined the headman receives a fourth of the total amount. During the spring hunts he receives a part of the flesh of every animal slain by a man from his own village. During the marriage ceremonies he occupies an important position throughout, and when a new bride is coming to his village her father has to pay a rupee to him before the party sets out from her home. At all times he is treated with [554] great respect, especially by the younger members of the community. A marriage party always pays its respects first at his house, and at festivals, when the young men go dancing through the village street, they start outside the headman's house.

In all matters involving the members of more than one village he is the acknowledged representative of his own people, whether it be the making of arrangements for a marriage or the [627] fixing of dates for festivals and for hunts. In the settling of disputes he acquires considerable experience, being the chairman of [623] the council in his own village and meeting with the headmen of [554] other villages when the hunt council sits. Enjoying a position

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that reason. Gradual deforestation and the absence of any effective protection for wild animals account for the present scarcity. Leopards, once present in great numbers, are now rare, though black bears are still relatively common. Some of the smaller kinds of Indian deer are found. It is many years since a tiger was killed in the Bankura district. Wild pigs are abundant, and so is the jungle hare, and there are many species of bird whose flesh is prized by the Santal. Every male of the tribe is an expert with the bow and arrow, and he is trained in its use from early childhood. The village parties hold together; they carry their own rations of rice and dried *matkom* cake for the night meal, and they are accompanied by their sleek and well-fed dogs. The men are dressed in loin-cloths, but they wear turbans roughly wrapped round their heads for protection against the heat of the sun. Some of the younger boys carry drums instead of weapons. The drums are used to swell the noise in the forest as the animals are driven closer towards the centre and to signal a kill, but they are also needed for the dancing that will follow. The flesh of the animals is distributed according to a regular code, though the rules are passing from use and now it is usual for the stronger of two parties to take the flesh of a kill when it is in dispute. The man who draws first blood receives the *madol*, consisting of one hind-leg, a part of which he must give to the headman of his village. If the man who first touches the animal belongs to a different village, he receives a shoulder; if it has been slain by yet another person than the one who drew first blood, the slayer receives five ribs, one fore-leg and the liver. The *dihri* receives the neck, and the remainder of the flesh goes to the co-villagers of the man who wounded the animal and not of the man who killed it. When the meat is distributed among the villagers, those who carry drums receive a double portion, and some of the meat is given to the dogs.

By evening several hundred men gather in the place where they are to spend the night. Camp fires are lit near some watercourse, and the moon rises slowly over the graceful palms that fringe the water and the belt of *sarjom* trees beyond. For some it is a night of hard work, for others it is a night of revelry. The elders from all the villages are gathered together for this one night during the year and form the supreme council of the tribe. The disputes which have baffled their several efforts in the course of the year are brought forward. Complaints involving members of more than one village are voiced and range

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over a wide field, involving inheritance, marriages and instances of indiscipline. Members are allowed to appeal against decisions made in village councils. Punishments inflicted range from outcasting to fines, and crude punishments are sometimes exacted on the spot, as in a case of a youth who had transgressed the rules of behaviour towards a woman relative with whom he was not in a joking relationship. He was compelled to drag his nose along a line of urine provided by the village headman whose authority had been flouted. The hearing of cases continues till the small hours of the morning and the discussions appear interminable, with accusation and counter-accusation, the calling of witnesses and references to tribal law and custom. It is, however, one of the great educating and cementing institutions in the life of the tribe. It is known to them by the name of "high court", a name that has been naturalized in most Indian languages. It is also called the *sendra dupup'*, the hunt sitting, and the *lo bir dupup'*, the burnt forest sitting, the latter name being due to the fact that the hunt takes place when the undergrowth in the forest has been burnt to help the fertilizing of the soil.

Meanwhile, when the evening meal is over the young men gather in another part of the clearing and spend the night in revelry. There is much strong liquor in evidence. In some cases the place of meeting has become the site of a government liquor shop. The dances, of a class known as *dongej*, are men's dances, and the songs, known as *bir*, or forest songs, are men's songs. They are frankly coarse and deal largely with the physical aspects of love, courtship and lust. Many of the songs that are sung on this night are never sung by the Santals in any mixed company, or, indeed, at any other time, a fact that indicates among them a standard of delicacy in sexual behaviour which certain modern schools of thought appear at times to deny to primitive people.

Towards morning some of the folk, young and old, rest for an hour or two of much-needed sleep, but when the sun has risen they take some breakfast and begin to disperse. They make their way to their own villages, hunting as they go; but on this second day the proceedings are apt to be unexciting, for they do not find much to kill. By late afternoon the men are home again with their spoils, and when these have been divided they work off their fatigue in sleep.

The supposed monotony of the struggle for a livelihood is broken by so many devices of nature and of man that it is